



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable T. M. Trimble
First Assistant Superintendent
State Department of Education
Austin, Texas

Dear Sir:

Opinion No. 0-6779
Re: Parochial Schools -
Constitutionality of a portion
of Section 1, Art. III, Senate
Bill 167 (Rural Aid Law), 49th
Legislature of Texas.

Your request for opinion has been received
and carefully considered by this department. We quote from
your request as follows:

"The last clause in sentence 3 of
Section 1, Article III, of the Rural Aid Law
which was enacted by the 49th Legislature pro-
vides in substance that there shall be de-
ducted from the enumerated scholastics of all
rural aid schools all scholastics enrolled in
or attending parochial schools in such rural
aid districts.

"We would like for you to define for
this Department the meaning of the word 'paro-
chial'. Is the term inclusive enough to include
all church schools and private schools, or is
the meaning of the word 'parochial' limited
enough to include only those church schools
which are controlled by a church parish?

"If your answer is that it includes
only those church schools which are controlled

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within a church parish, and does not include private and church schools that are not controlled within a parish, has the Legislature acted within its Constitutional authority in discriminating against this particular group of children?"

We quote from Section 1 of Article III, Senate Bill 167, 49th Legislature of Texas, as follows:

"The basis for calculation shall be the net scholastic enumeration of white or colored race, as the case may be, including the transfers into the district, provided such transfers are from districts eligible to receive aid under Article I of this Act for the current year, and excluding the transfers out of the district; and there shall be deducted all scholastics who have completed the course of study in their home school, as classified by the county board of trustees, those whose grades are taught within the district from which they are transferred, unless such scholastics maintain an average daily attendance of sixty-five (65) per cent in the district to which they are transferred, and all scholastics enrolled in or attending parochial schools in the district. . . ."
(Underscoring ours)

46 Corpus Juris, p. 1383, defines the term "parochial" as follows:

"Parochial - Relating to or belonging to a parish."

Webster's New International Dictionary, Second Edition, defines the terms "parochial" and "parochial schools" as follows:

"Parochial - 1. Of or pertaining to a parish; as parochial clergy or boundaries; controlled, supported by or within the jurisdiction of a parish, or parish church; as parochial

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schools, charities. 2. confined or restricted to a parish; as, of parochial interest; hence limited in range or scope; narrow, local; as a parochial mind or point of view.

"Parochial School - a school usually for elementary instruction, maintained by a parish or a religious body."

The case of State ex rel Johnson, et al v. Boyd, et al, 28 N. E. (2) 257, holds that the question as to whether a school is public or parochial is determined by the control thereof. We quote from said case as follows:

"Although it was alleged in the complaint that these schools were directed and controlled through the clerical government of the church exercised by and through the Bishop, there was no such finding by the Court. Whether these schools, during the period in question, were parochial or public schools is determined by their control."

Words in common use when used by the Legislature in a statute are to be understood as intended to express the sense in which they are ordinarily used. T. & P. Ry. Co. v. Railroad Commission of Texas, 150 S. W. 878.

It is our opinion that the term "parochial" as used in the above quoted statute should be given its usual and ordinary meaning as shown by the definitions above quoted in this opinion. It is our further opinion that the term "parochial" is a limited term and is not inclusive enough to include all church schools and all private schools. As to whether any particular school is or is not a parochial school will of course be determined by all the facts with reference thereto.

It is also our opinion that the portion of the above quoted act, which you have inquired about, is

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clearly constitutional. See *Munne v. Marrs*, 40 S. W. (2) 31.

Very truly yours

ATTORNEY GENERAL OF TEXAS



By

Wm. J. Fanning
Assistant

WJF:BT

